

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No. 1:16-cv-03088-
v.)	ELR
)	
STATE OF GEORGIA,)	
)	
Defendant.)	
)	

**UNITED STATES’ RESPONSE TO DEFENDANT’S EMERGENCY
MOTION FOR AMENDED SCHEDULING ORDER**

Plaintiff United States of America (“United States”) files this response to the October 12, 2023 Emergency Motion for Amended Scheduling Order (“Motion”) filed by Defendant State of Georgia (“State”), and states as follows:

1. This case has been pending since 2016.
2. The factual record in this matter has been closed since March 10, 2023.
3. The State has been in possession of detailed reports outlining the conclusions of the United States’ two affirmative experts since June 16, 2023.
4. The State completed its deposition of the United States’ first affirmative expert on September 7, 2023.

5. Due to unavoidable circumstances, the depositions of the United States’ second affirmative expert and the State’s rebuttal expert were postponed twice and are currently scheduled to be completed on October 24, 2023 and October 30, 2023, respectively.

6. The State’s Motion seeks to amend the July 19, 2023 Amended Scheduling Order (ECF No. 379) (“July Order”) to extend the deadline for completing expert depositions to October 31, 2023 and to extend the deadline for filing summary judgment motions to November 17, 2023.

7. The United States does not object to extending the deadline for expert depositions to October 31, 2023.

8. In light of the current circumstances, and as the United States has already advised the State, the United States does not object to a modest extension of the deadline for filing summary judgment motions to November 7, 2023, which would provide the State a reasonable opportunity to incorporate into its motion any references to the October 24, 2023 deposition testimony of the United States’ second affirmative expert that it wishes to add.

9. The United States does object to extending the deadline for filing motions for summary judgment to November 17, 2023—nearly one month after the State is scheduled to conduct its only remaining deposition—given that the State has long

been in possession of the vast majority of information relevant to any motion for summary judgment it may file, as noted above. Further, filing motions for summary judgment on November 17 raises the very sorts of concerns about holiday conflicts that the State's motion claims the State seeks to avoid.

10. To the extent the State has concerns about the timeline for its response to any motion filed by the United States, the United States makes the following representations:

- a. The United States intends to file a motion for partial summary judgment on or before the October 20, 2023 deadline set by the July Order for such filings.
- b. The United States' motion relates only to the factual record that closed in March 2023 and not to matters on which experts in this case have opined.
- c. Because the Local Rules require that Defendant file any opposition to such a motion within 21 days, Defendant's opposition will be due well before the Thanksgiving holiday and the pre-planned travel Defendant cites as a concern in its Motion.

CONCLUSION

In light of the foregoing, the United States asks this Court to extend the deadline for completing expert depositions to October 31, 2023 and to limit any

extensions of the deadline for filing summary judgment motions to November 7, 2023.

October 16, 2023

Respectfully submitted,

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L.R. 7.1(D) CERTIFICATION

I certify that this Response has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this brief has been prepared using 14-pt Times New Roman Font.

/s/Kelly Gardner Womack
Kelly Gardner Womack

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the foregoing document with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 16th day of October, 2023.

/s/Kelly Gardner Womack
Kelly Gardner Womack